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SK *Snavely King Majoros O'Connor & Bedell, Inc.*
Economic and Management Consultants

April 23, 2009

By Hand Delivery

Honorable Anne K. Quinlan
Secretary
Surface Transportation Board
395 E Street SW
Room 700
Washington DC 20423

RE: Ex Parte No. 431 (Sub-No.3) –Review of the Surface Transportation Board's General Costing System
Notice of Intent to Participate

Dear Secretary Quinlan,

In accordance with the Surface Transportation Board's Decision of April 6, 2009 issued in the above proceeding, Tom O'Connor, Vice President of Snavely King Majoros O'Connor & Bedell, Inc. (SK or Snavely King) hereby provides notice of intent to participate in the public hearing scheduled for April 30th, 2009.

Mr. O'Connor will be appearing on behalf of the following parties, The American Chemistry Council, the Edison Electric Institute, the National Grain and Feed Association, and The National Industrial Transportation League ("Interested Associations"). Mr. O'Connor requests 15 minutes to present comments on the Review of the Surface Transportation Board's General Costing System.

Please contact me with any questions.

We have enclosed a copy to be date-stamped and returned to our messenger.

Respectfully submitted,

Tom O'Connor

Tom O'Connor

1111 14th Street NW | Suite 300 | Washington DC 20005 | 202.371.9149 | toconnor@snavely-king.com

BEFORE THE

SURFACE TRANSPORTATION BOARD

Ex Parte No. 431 (Sub-No. 3)

Review of the Surface Transportation Board's General Costing System

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TESTIMONY OF

TOM O'CONNOR
SNAVELY KING MAJOROS O'CONNOR AND BEDELL
1111 14TH ST. N.W.
WASHINGTON, D.C. 20005

sponsored by

AMERICAN CHEMISTRY COUNCIL
EDISON ELECTRIC INSTITUTE
THE NATIONAL GRAIN AND FEED ASSOCIATION
THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE

Dated: April 23, 2009

BEFORE THE

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THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE

The American Chemistry Council, the Edison Electric Institute, the National Grain and Feed Association, and The National Industrial Transportation League ("Interested Associations") are sponsoring and submitting to the Board the testimony of Mr. Tom O'Connor, of the firm of Snavely King Majoros O'Connor and Bedell, in response to the questions posed by the Board in its Notice of Public Hearing dated April 6, 2009 in this proceeding ("Notice").[1]

In its Notice, the Board indicated that its Uniform Rail Costing System ("URCS")is used by the Board in a variety of regulatory proceedings, to determine a rail carrier's variable costs. URCS was initially adopted in 1989 and was partially reviewed and revised in 1997. Notice, p. 1. The Board also stated that a periodic review of URCS is called for in 49 U.S.C. 11161.

[1] The views expressed by the Interested Associations herein do not necessarily represent the views of each individual member.

In its Notice, the Board indicated that it believes that it is time for a second and more comprehensive review of URCS to determine whether and to what extent modifications are needed to account for recent changes in Board procedures and to improve the system outputs. Notice, p. 2. The Board asked the parties to address thirteen separate items in order to assess how best to revise the existing URCS model.

These Interested Associations have sponsored the attached testimony of Mr. Tom O'Connor, which addresses the questions asked by the Board. In addition to the information presented by Mr. O'Connor, these Associations wish to note several overarching principles that should guide the Board should the agency determine to revise the existing URCS model.

Specifically, URCS and its predecessor costing methodology, Rail Form A, have a long history, and the basis for the current URCS system, including the studies underlying the costing procedures, extends back many years. This is a highly technical matter. A revision of URCS will therefore require significant resources to be expended by the Board, and these Interested Associations believe that the Board will need to obtain significant additional resources from the Congress in order to perform the studies that will be needed to revise URCS properly.

Second, if the Board decides to initiate a revision of URCS, it must commit to a revision of all aspects of URCS. In other words, a partial revision is not appropriate, since there is no way to determine, before undertaking an analysis, what needs to be revised, and how. A partial revision runs the risk of skewing the results, to the detriment of parties appearing before the Board at any particular time. These Interested Associations note that Board's Notice appears to agree with this conclusion, as the Board discusses the need for a "comprehensive" review of the URCS costing system.

Finally, and perhaps most importantly, if the Board decides to initiate a revision of URCS, then the effort must be a transparent one. That is, the Board, or any contractor employed by the Board, must make its data, analyses and work papers available to the public before the Board adopts any new costing system, so that interested parties can determine what was done, what was accepted, what was rejected, and why. In addition to the element of fairness, a transparent process will be most efficient, since industry participants will not have to replicate what the Board has already done, but would simply be able to review the work to ensure the best possible product, and submit comments to the Board on that basis.

Respectfully submitted,

Charles W. King, President
Snavely King Majoros O'Connor & Bedell, Inc.
Admitted to Practice, April 10, 1967

1111 14th Street, NW, Suite 300
Washington, DC 20005

American Chemistry Council

Edison Electric Institute

The National Grain and Feed Association

The National Industrial Transportation League

Dated: April 23, 2009

BEFORE THE

SURFACE TRANSPORTATION BOARD

STB Ex Parte No. 431 (Sub-No. 3)

REVIEW OF THE SURFACE TRANSPORTATION BOARD'S GENERAL COSTING SYSTEM

Verified Statement

of

Tom O'Connor

Vice President

Snavely King Majoros O'Connor & Bedell, Inc.

1111 14th St NW

Washington DC

April 23, 2009

I. Introduction

My name is Tom O'Connor. I am Vice President of the economic consulting firm of Snavely King Majoros O'Connor & Bedell, Inc. ("Snavely King"). My business address is 1111 14th Street, N.W., Suite 300, Washington, D.C. 20005. Snavely King, formerly Snavely, King, & Associates, Inc., was founded in 1970 to conduct research on a consulting basis into the rates, revenues, costs, and economic performance of regulated firms and industries. Snavely King is an economic and management consulting company focusing on transportation and utilities. Snavely King has been in business for more than 39 years, serving transportation clients including railroads, shippers and government agencies, in the United States, Canada and Europe.

The firm has a professional staff of economists, accountants, engineers, and cost analysts. Much of its work involves the development, preparation, and presentation of expert witness testimony before federal and state regulatory agencies. Over the course of its 39-year history, members of the firm have participated in over one thousand proceedings before almost all of the state commissions and all Federal commissions that regulate utilities or transportation industries. I have been involved with the development and application of the Uniform Rail Costing System ("URCS") through much of my career. A summary of my qualifications and experience is included as Attachment A.

On April 6th, 2009 the Surface Transportation Board ("STB" or "Board") released a notice of public hearing in Ex Parte No. 431 (Sub-No. 3), *Review of the Surface Transportation Board's General Costing System*, seeking comment on issues related to the Board' Uniform Rail Costing System ("URCS"). I have been asked by the American Chemistry Council, the Edison Electric Institute, the National Grain and Feed Association, and The National Industrial Transportation League ("Interested Associations") to comment on the issues identified by the STB for potential consideration to modify URCS. In preparing these comments I affirm and have adopted the overarching principles identified by the Interested Associations, as summarized below:

First, URCS and its predecessor costing methodology, Rail Form A, have a long history, and the basis for the current URCS system, including the studies underlying the costing procedures, extends back for many years. This is a highly technical matter. A revision of URCS will therefore require significant resources to be expended by the Board, and the Board will need to obtain significant additional resources from the Congress in order to perform the studies that will be needed to revise URCS properly.

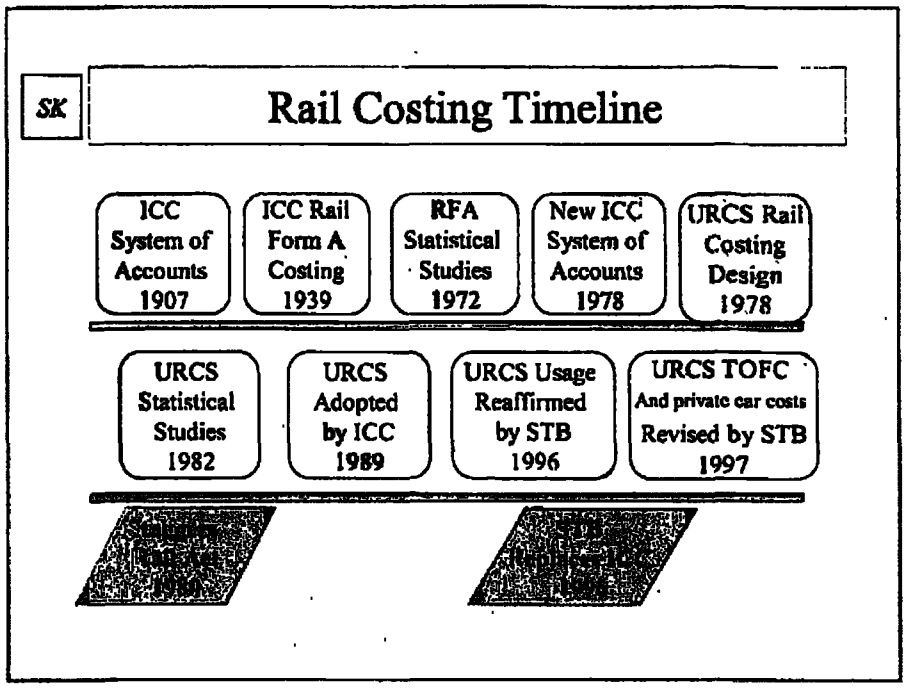
Second, if the Board decides to initiate a revision of URCS, it must commit to a review and possible revision of all aspects of URCS. In other words, a partial revision is not appropriate, since there is no way to determine, before undertaking an analysis, what needs to be revised, and how. A partial revision runs the risk of skewing the results, to the detriment of parties appearing before the Board at any particular time. The Board's Notice appears to agree with this conclusion, as the Board discusses the need for a "comprehensive" review of the URCS costing system.

Finally, and most importantly, if the Board decides to initiate a revision of URCS, then the effort must be transparent. That is, the Board, or any contractor employed by the Board, must make its data, analyses and work papers available to the public before the Board adopts any new costing system, or major revisions to the existing URCS system. The objective is that the industry can determine what was done, what was accepted, what was rejected, and why. In addition to the element of fairness, a transparent process will be most efficient, since industry participants, and others, will not have to replicate what the Board has already done, but would simply be able to review the work to ensure the best possible product, and submit comments to the Board on that basis.

While the sponsoring Associations do not necessarily advocate a wholesale revision of URCS it is a fact that deficiencies have been encountered in URCS, some of which appear to have relatively simple remedies. In the next section I provide some general background comments on URCS and specific comments on each of the 13 issues the Board has identified.

A. Background on URCS

To provide consistent and comparable information on railroad costs, the ICC in 1939 developed a General Purpose Costing System (GPCS) known as Rail Form A (RFA). Rail Form A was adopted in 1939 and used for 50 years to estimate the variable cost of rail services. In September 1989, the ICC replaced RFA with the Uniform Railroad Costing System, a system widely acknowledged to produce more accurate costs than those developed by RFA. The following Chart summarizes some of the key events in the process that developed URCS.



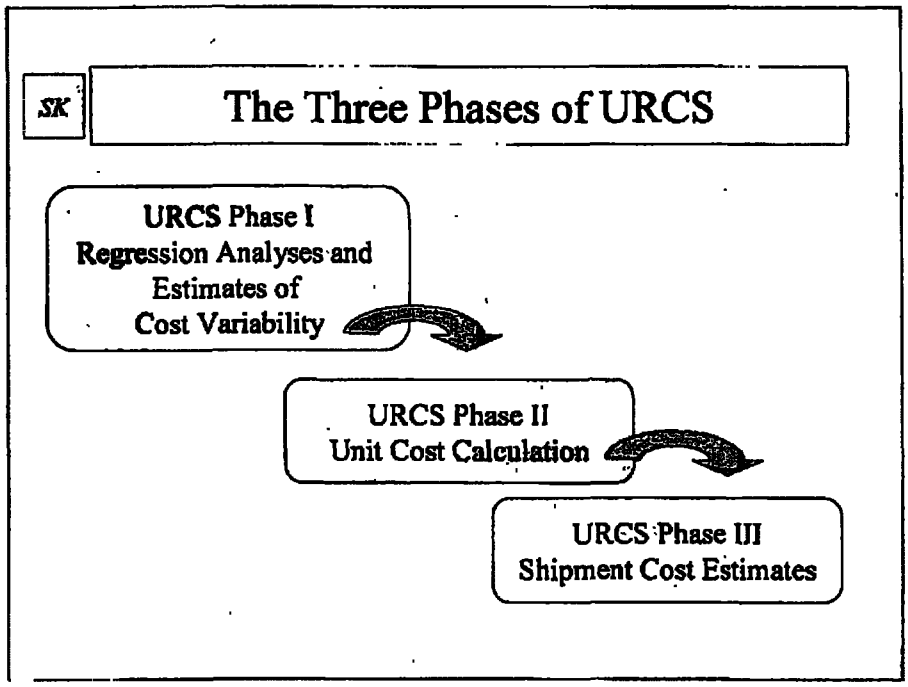
B. Comments on URCS Issues Identified by the Board

As noted above, on April 6th, 2009 the Surface Transportation Board ("STB" or "Board") released a notice of public hearing (NPH) in Ex Parte No. 431 (Sub-No. 3), *Review of the Surface Transportation Board's General Costing System*, seeking comment on issues related to the Board' Uniform Rail Costing System ("URCS").

URCS develops average variable costs. Rail operations involve many instances of joint and common costs. A given set of assets produces service over many time periods and many different services within each time period. URCS is used to allocate costs in such situations.

Although rail regulation has changed significantly, standardized railroad cost information is still needed. URCS is now the primary method used to meet this need. Regulatory reform legislation was enacted in 1976, namely the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act) and in 1980 the Staggers Rail Act of 1980 (Staggers Act) was passed. This and similar legislation established current rail regulations. In the current situation the STB's General Purpose Costing System, URCS, is used for various regulatory purposes.

The structure of URCS is shown in the following Chart.



As the Board stated in its NPH[1] the STB "believes it is time for a second, and more comprehensive, review of URCS to determine whether and to what extent modifications are needed to account for recent changes in Board procedures and to improve the system outputs." Accordingly, the Board instituted this proceeding to receive public comment "on how best to revise the existing URCS model." Parties were specifically encouraged to address whether and how the Board could:

1. Improve the efficiency adjustments associated with unit-train and multi-car movements;
2. Update the historical studies used in URCS;
3. Improve the costing of trailer or container on flat car (TOFC/COFC) traffic;
4. Update the URCS national car tare weight calculation to account for the number of car miles that each car type operates;
5. Update the number of miles between non-intermodal intertrain/intratrain (I&I) switches by URCS car type;
6. Disaggregate loss and damage information by carrier and by two-digit Standard Transportation Commodity Code (STCC) groupings;
7. Revise the Train Switching Conversion factor used to place all road train crew wages on a common mileage basis;

[1] Source: STB Notice of Public Hearing, EX Parte No. 431 (Sub No. 3), served April 6, 2009

8. Require carriers to report their average switch engine speeds in order to better reflect switching expenses;
9. Revise the ratio of urban and rural land values to allocate expenses between running and switching;
10. Revise the URCS car types to eliminate outdated car types and add new car types to reflect those currently used in the railroad industry;
11. Revise the spotted to pulled factor for each car type;
12. Revise the approach used in individual proceedings to index URCS in order to use the Rail Cost Adjustment Factor indexes published by the Board; and
13. Update the various statistical relationships used in URCS, including the variability estimates.

The Board also welcomed suggestions on additional aspects or features of URCS the Board should revisit. In this Statement, I address each of the issues on which the Board is seeking comment.

1. Improve the efficiency adjustments associated with unit-train and multi-car movements;

Comment

The Board's statutory mandate of 49 U.S.C. Sec. 11161 requires that the Board "shall periodically review its cost accounting rules and shall make such changes in those rules as are required to achieve the regulatory purposes of this part." The estimated cost adjustments

associated with Multiple Car and Unit Train or trainload shipments largely source to studies completed in 1974.[2] The use of multiple car and unit train and trainload shipment operations cuts costs and improves efficiency compared to single-car operations. Similarly, the introduction of "Double Stack" container trains in the 1980's also dramatically improved efficiency. URCS largely relies on assumptions and broad adjustment factors to reflect such gains in efficiency over single-car operations. Reliance on readily observable facts would be preferable. Despite the 1997 review of URCS, the efficiency adjustments in URCS for unit-train and multiple-car movements have not been adjusted since the original studies were done to reflect changes in the railroad industry such as the substantial growth in intermodal traffic, the introduction of Double Stack in the 1980's and increased use of longer unit trains for coal and distributive power. In fact, some of the calculations that are still embodied in URCS were derived from studies dating back to the age of steam engines.[3] However one remedy for much of this is readily available through direct observation.

[2] See ICC Ex Parte No. 270 (Sub No. 4) Decided December 3, 1974.

[3] URCS was adopted by the ICC in 1989 after about a decade of development work. Many of the URCS allocation factors still in use today source to Rail Form A, the predecessor of URCS, which was introduced in 1939. Some of those allocation procedures have not been reviewed or updated for decades. See for example the ICC Bureau of Accounts (BOA) Statement entered in ICC Docket No. 34013 in 1964, commenting on shippers opposing use of switch engine minute studies which did not recognize the change to full diesel –electric power. (ICC Docket no. 34013 Statement of S.N. Crewe, September 1964, page 11.) See also BOA discussion of Comments by the U.S. Secretary of Agriculture and other parties calling for an update to switching factors based on studies introduced prior to 1939. ICC Docket no. 34013 Statement of S.N. Crewe, September 1964. page 26, 46.

2. Update the historical studies used in URCS;

Comment

Outdated factors exist not only in the costing of unit train, multiple car and intermodal shipments but also in the costing of single carload shipments. While URCS uses better defined data from the Uniform System of Accounts adopted in 1978, URCS costs are still heavily driven by factors developed earlier for use in Rail Form A, the predecessor ICC-STB regulatory cost system. Train related costs in URCS better reflect the average weights of train types such as Way train, Through train and Unit train. However, many other costs such as switching costs are based on assumptions and studies from the mid-twentieth century rather than currently observable facts. Including railroad origin switch costs[4] for trains assembled and switched by the shipper is a prominent example of the departure of URCS costs from observable facts. URCS costs the origin switch as if it was performed by the railroad when in many cases those costs are largely borne by the shipper. The switching costs associated with multiple car shipments, unit train and trainload shipments are also areas in which data could readily be obtained. However URCS still uses factors developed in ICC regulatory cases dating back 40 years or more.[5] These factors drive the results for freight car

[4] Termed Road Train To Industry costs in Rail Form A and in URCS

[5] Ex Parte 270 (Sub-No..4) was an ICC investigation of the railroad freight rate structure for coal. Switching and other cost adjustments developed in that proceeding were applied frequently in ICC studies using Rail Form A. Many of those Rail Form A cost adjustments were transferred to URCS with little if any systematic or operational review.

costs and clerical costs as well as origin and destination switch costs. With Station Clerical costs an adjustment persists in URCS to estimate a cost which has in fact largely disappeared as Electronic Data Interchange has replaced manual clerical processing. Such areas are well known and the remedies are well understood. Observation of the operation and its metrics can enable verifiable facts to replace assumptions.

3. Improve the costing of trailer or container on flat car (TOFC/COFC) traffic;

Comment

The introduction of Double Stack intermodal operations in the early 1980's and its widespread adoption was driven by and clearly demonstrated the increased efficiency of Double Stack compared to traditional trailer or container on flat car (TOFC/COFC) loading and handling. The efficiencies were so clear that the rail infrastructure was modified to enable Double Stack Intermodal operations. This involved clearance adjustments to bridges, tunnels and overpasses that are still taking place today. URCS intermodal costing still does not adequately reflect the cost savings achieved through Double Stack operations.

4. Update the URCS national car tare weight calculation to account for the number of car miles that each car type operates;

Comment

Freight car tare weight and the freight car empty return ratio are two important factors in rail costing. Seemingly minor differences in either factor can have significant impact on costs. Imprecision in measurement of the tare or empty weight of the car is amplified by the fact that tare weight impacts both loaded and empty miles in the widely used gross ton mile calculations. Improved specificity leads to improved accuracy. The long term impetus is to reduce both tare weight and empty miles. The Board could update URCS to reflect both trends.

5. Update the number of miles between non-intermodal intertrain/intratrain (I&I) switches by URCS car type;

Comment

The frequency of intertrain and intratrain switches is driven by studies conducted during the development of Rail Form A, the URCS predecessor system. The assumption is that such studies are still pertinent today. However, railroad practice has been moving consistently toward assembling blocks of cars and switching those blocks of cars rather than handling single carloads. The frequency of intertrain and intratrain switches used in costing non intermodal moves has largely remained unchanged since the inception of Rail Form A 70 years ago, a fact that does not take

into account the widespread uses of operational planning systems and ongoing crew cost reduction efforts.

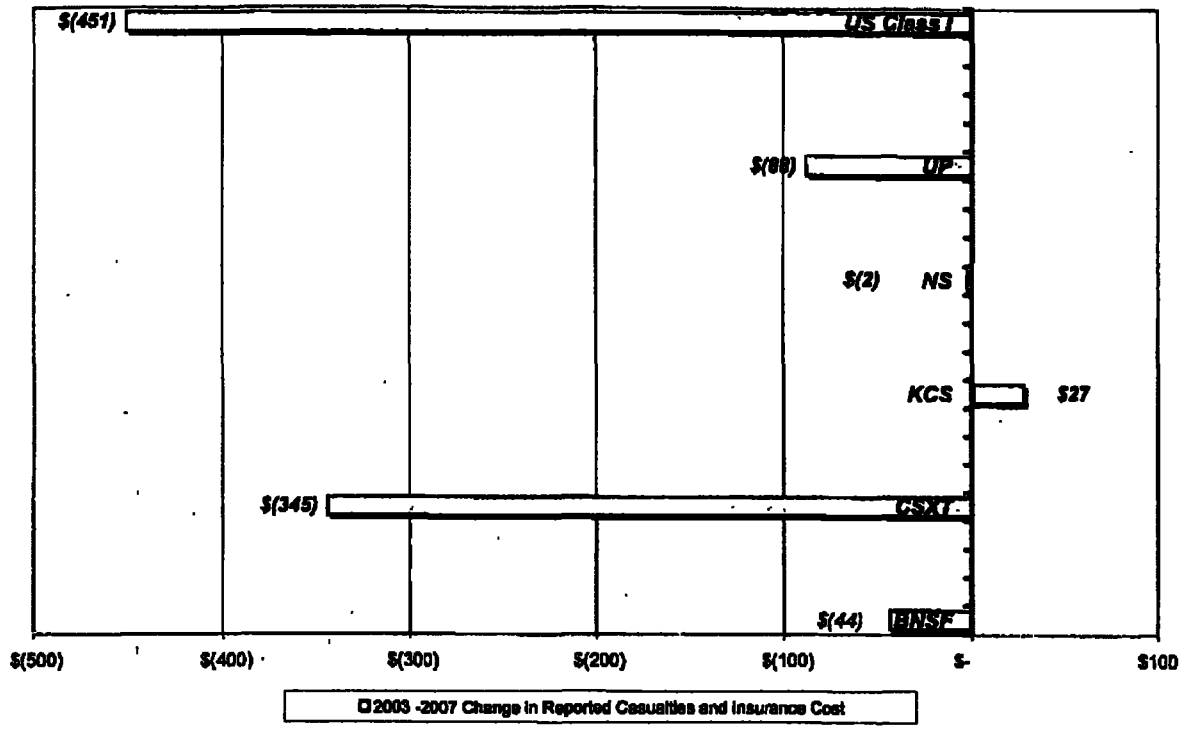
6. Disaggregate loss and damage information by carrier and by two-digit Standard Transportation Commodity Code (STCC) groupings;

Comment

The source of loss and damage costs in URCS is Loss and Damage Expense by Commodity Classification. These national statistics source to AAR Circular No FCDP-95. While these are national statistics, the loss and damage experience can be expected to vary by carrier. URCS worktable A1 Part 4 shows that it may vary by commodity.

As the following chart shows, the overall experience with somewhat similar expenses, casualties, insurance and related costs, while good, shows significant differences by carrier.

Chart I: Change in Insurance and Related Costs 2003-2007
(Dollars in Millions)



As Chart I indicates, the five railroads taken as a group reported a significant decrease in casualties, insurance and related costs during the 2003 through 2007 period. Each of the individual railroads except for KCS also reported declines in these costs during this time period.

7. Revise the Train Switching Conversion factor used to place all road train crew wages on a common mileage basis;

Comment

One of the key components in the current URCS treatment of this allocation sources to a study reported in an ICC document published in 1963.[6] The related calculations are somewhat complicated. The Board could update the study and re-examine the allocation process.

This train switching area and several of the cost areas which follow draw on ICC source documents developed for use in Rail Form A during the 1960's and which were designed for the predecessor ICC costing system. They were not updated when URCS was adopted..

[6] See ICC Statement 7-63 published by the ICC in 1963

This is shown in the Source column of the following table, which is part of the currently-used URCS Worktable A1.

0WORKTABLE A1 PART B
OPERATING STATISTICS

LINE	CODE -1	IDENTIFICATION	SOURCE	AMOUNT
580	A1801	RATIO - TOTAL/REVENUE TRAILER MILES (BY REGION)	STMT 1S4-69	1.48
581	A1802	AVERAGE NO. TRAILERS/CONTAINERS PER CAR (BY REGION)	STMT 1S4-69	5.49356
582	A1803	LINEHAUL MILES PER TRAILER DAY (BY REGION)	STMT 1S4-69	478
583	A1804	TRAILER DAYS PER O&T EVENT (BY REGION)	STMT 1S4-69	7.29
584	A1805	AVERAGE TARE WEIGHT TRAILER - REFRIG.	UMLER FILE	7.3
585	A1806	AVERAGE TARE WEIGHT TRAILER - NON REFER.	UMLER FILE	5
586	A1586	PORTION OF TIME S&T CO'S. SERVE LH CARRIERS	STMT 7-63	.75
587	A1587	WEIGHTING FACTOR SWITCHING VS LINE HAUL	STMT 7-63	2.6
588	A1588	URBAN PORTION OF TOTAL LAND VALUE	STMT 7-63	.75
589	A1589	RURAL PORTION OF TOTAL LAND VALUE	STMT 7-63	.25
590	A1590	RUNNING PORTION OF URBAN LAND VALUE	STMT 7-63	.16
591	A1591	SWITCHING PORTION OF URBAN LAND VALUE	STMT 7-63	.84
592	A1594	TRAILER DAYS - REFRIG. TRAILERS - 1969	STMT 1S4-69	2402
593	A1595	TRAILER DAYS - OTHER TRAILERS - 1969	STMT 1S4-69	9214
594	A1596	TOFC/COFC LOADED CAR MILES - 1969	STMT 1S4-69	803383
595	A1597	WEIGHTING FACTOR TRAIN SWITCHING (WAGES)	STMT 7-63	16.25

8. Require carriers to report their average switch engine speeds in order to better reflect switching expenses;

Comment

Better estimation of switching expenses is a basic need in URCS. The Equated Switch Factors study used in URCS to allocate switch costs among types of switches sources

back to the 1960's, in the Rail Form A era.[7] It is very likely that improvements have occurred in the intervening 46 years since that ICC study was published. In fact rail operations such as intra-terminal and inter-terminal shipments that were prominent enough to be included in the 1963 study have largely disappeared.

9. Revise the ratio of urban and rural land values to allocate expenses between running and switching;

Comment

The ratio of urban and rural land can and does vary markedly both among railroads and within a given railroad as well as varying over time as land is converted from rural to urban applications. This ratio of urban and rural land sources back to the 1960's, in the Rail Form A era.[8] The number or railroads, the proportion of urbanized land and many other factors have changed since the 1960's. The agency could update this area and could review the applicability of the underlying cost allocation procedure.

[7] See ICC Statement 7-63 published by the ICC in 1963.

[8] See ICC Statement 7-63 published by the ICC in 1963.

10. Revise the URCS car-types to eliminate outdated car types and add new car types to reflect those currently used in the railroad industry;

Comment

The designation of car types is a frequently encountered issue since the AAR and the ICC use different methods for defining car types. In some instances the differences do not cause costing issues. In other instances, with changing fleets of specialized cars, it is advisable to ensure that the flow of the record keeping stays up to date with the flow of the transportation.

11. Revise the spotted to pulled factor for each car type;

Comment

The spotted to pulled ratio estimates the incidence of reloading a freight car; it impacts both car costs and switch costs. The spotted to-pulled ratio also sources to the to the 1960's, in the Rail Form A era.[9] The support for this series of factors is basically a priori analysis and assumptions. However the factors describe readily observable and documented events. As the following chart shows, the same factor is used for all but two car types, 40 foot unequipped boxcars and 50 foot unequipped boxcars. During the period when the spotted to pulled ratios and factors were introduced only the general service box car was seen as likely to be reloaded. Currently, the unequipped

[9] See ICC Statement 7-63 published by the ICC in 1963.

boxcar is a minor component of the fleet. However, currently some of the flat cars used in TOFC and COFC service could be reloaded. The agency could measure the probability of reloading such cars and reflect that as appropriate in the costing.

WORKTABLE A1 PART 5A (CONTINUED)

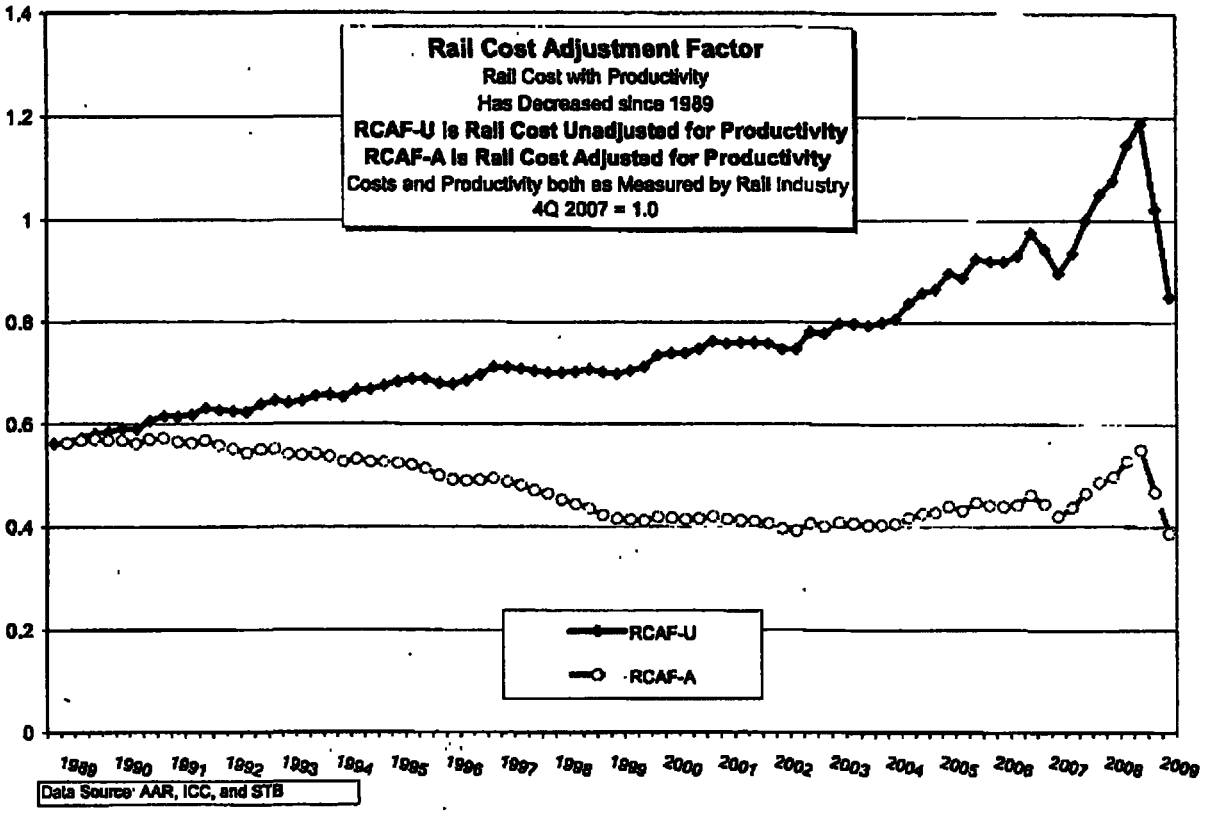
Car Type		Spotted to Pulled Ratio
501	BOX 40 FOOT	1.8
502	BOX 50 FOOT	1.8
503	BOX EQUIPPED	2
504	GONDOLA-PLAIN	2
505	GONDOLA EQUIPPED	2
506	COVERED HOPPER	2
507	HOPPER OTG	2
508	HOPPER OTS	2
509	REFRIG-MECH	2
510	REFRIG-NON MECH	2
511	FLAT TOFC	2
512	FLAT-MULTILEVEL	2
513	FLAT-GENERAL	2
514	FLAT-OTHER	2
515	ALL OTHER CAR TYPES	2

12. Revise the approach used in individual proceedings to index URCS in order to use the Rail Cost Adjustment Factor indexes published by the Board;

Comment

The Rail Cost Adjustment Factor (RCAF) is frequently used in negotiations and in other rate related matters. The RCAF is based on data assembled by the AAR and largely collected from the railroads. The RCAF is reviewed and adjusted as appropriate by the STB on a quarterly basis. As such, the RCAF is a logical candidate for use in updating URCS costs to the current quarter. The following graph shows the

RCAF both unadjusted for productivity and adjusted for productivity during the 20 year period 1989 -2009.



13. Update the various statistical relationships used in URCS, including the variability estimates.

Comment

This is the single most powerful issue identified by the STB. It could generate a significant change in the estimation of railroad costs. The impact of these factors permeates

URCS and largely determines the bottom line results of a wide range of applications of URCS in both commercial and regulatory applications.

If the Board decides to initiate a revision of URCS, then the effort must be transparent. The Board, or any contractor employed by the Board, must make its data, analyses and work papers available to the public before the Board adopts any new costing system, or significant revisions to the existing URCS system. This will enable the Interested Associations and the industries they represent to determine what was done, what was accepted, what was rejected, and why. In addition to the element of fairness, a transparent process will be most efficient, since industry and other participants will not have to replicate what the Board has already done, but would simply be able to review the work to ensure the best possible product, and submit comments to the Board on that basis.

The importance of review of this particular URCS issue is clear from consideration of the time line and the following facts:

- URCS was adopted by the ICC in 1989, based largely on work done long before
- The Rail Cost Adjustment Factor Adjusted for Productivity (RCAF-A) was initially adopted by the ICC in 1989
- The rail costs in URCS are largely determined by the cost variabilities estimated in URCS Phase I.

- Those variabilities are based on analysis of five years or less of reported railroad cost and output data. That data was reported by the railroads during a time period beginning in the late 1970's and concluding long before 1989.
- The analyses of URCS cost variabilities pre-dated the RCAF-A by many years and thus those estimated cost variabilities were not illuminated by consideration of the preceding RCAF graph. The graph shows the dramatic and consistent impact of productivity on railroad costs which has persisted during the years 1989 through 2009.

Even when we focus on the more recent years during which fuel cost increases were very significant we observe the moderating effect of RCAF-A. On initial inspection these RCAF-A data are consistent with a declining cost industry. That declining cost pattern is long term: it has persisted in RCAF-A over the past 20 years. One of the primary uses of URCS has been maximum rate regulation which depends heavily on reliable and accurate estimates of cost.

We note that URCS is driven by the data underlying the RCAF-U, which shows long term increases in costs but the RCAF-U does not reflect productivity gains. The underlying data shown on the graph was computed by the AAR and reviewed and approved by the STB. While we do not adopt a position on this matter at this stage of development, the Board could analyze this and similar issues and data as part of a due diligence review of the URCS issues identified by the STB. URCS impacts a wide range of issues coming before the Board and is involved in virtually all Board decisions related to cost and rates.

URCS cost variabilities are likely the single most powerful issue identified by the STB. As noted above, reexamination of these URCS cost variabilities could generate a significant change in railroad cost estimates. The impact of URCS cost variabilities permeates URCS and impacts bottom line results for both shippers and railroads.

Verification

I, Tom O'Connor, declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed on April 23, 2009.

Tom O'Connor

Tom O'Connor

Vice President

Snavely King Majoros O'Connor & Bedell, Inc.

Attachment A

Resume of

Tom O'Connor

Vice President

Snavely King Majoros O'Connor & Bedell, Inc.

1111 14th St NW

Washington DC 20005

Experience

Snavely King Majoros O'Connor & Bedell, Inc., Washington, DC
Vice President (1988-Present)

Mr. O'Connor has more than thirty years experience in business and economic analysis. His experience includes key and increasingly responsible management and policy positions with government agencies and private industry.

Mr. O'Connor has authored a series of guidelines on transportation negotiations and contracting and has conducted transportation negotiations and contracting seminars for a wide range of clients. Mr. O'Connor has also designed and helped lead transportation contract negotiations resulting in tens of millions in cost savings.

Mr. O'Connor has also appeared as an expert witness on rail line abandonment cases and in rail rate litigation, achieving millions of dollars in savings for the client. He has served many clients as an expert advisor on the Rail cost Adjustment Factor (RCAF).

He has also created and managed numerous computerized management and regulatory systems to address complex problems and is a widely recognized expert on costing and economics. He has appeared as an expert on the ICC-STB rail abandonment regulations. He also developed the most widely used line economic analysis system in the US rail industry; the United States Railway Association Light Density Line Analysis system.

He has also conducted analyses of tug and barge operations, both inland and off shore, for governmental and private sector clients.

Mr. O'Connor has conducted analyses for the Government of Canada used to shape policy for freight transportation and studies for the U.S. Government used to shape Freight and Passenger Transport Policy, including in depth analyses of Amtrak.

For the Government of Bulgaria, in the Balkans, he developed the Master Plan for Management Information Systems, including telecom and computer facilities designed to operate, measure, manage and monitor both rail freight and rail passenger operations of the Bulgarian State Railways, in Bulgaria and the Balkan Peninsula.

Mr. O'Connor has analyzed more than 45 rail merger scenarios and cases. He has provided expert testimony before state and federal courts and commissions in the U.S. and Canada on economic and policy issues. He has also testified as an expert on computerized transportation analytical systems, rail operations, anti trust issues and transportation economics and costing.

Mr. O'Connor has served as an impartial and expert monitor of data and processes at issue in litigation on transportation.

Mr. O'Connor has also conducted management audits, focused on identifying the cause and effect relationships underlying claimed cost incidence. The management audits were directed toward testing the cost basis of claims asserted by major railroads.

Mr. O'Connor also has experience in telecoms spanning the period since 1995. During this period, on a succession of government and commercial projects, Mr. O'Connor directed and participated in the review, design and operation of telecoms systems.

He also designed and developed the business and operations plan for an Eastern European telecoms startup company, BDZCOM. Mr. O'Connor designed and presented the plan and conducted liaison with international commercial, banking and government interests in the United States and Europe.

DNS Associates Inc., Washington, DC
Vice President (1982 - 1988)
Mr. O'Connor directed and participated in numerous projects including merger analyses, transportation infrastructure analyses, plant and network rationalization and feasibility studies.

He designed and implemented mainframe and microcomputerized systems for analyzing rail, truck and barge logistics. The computerized cost systems Mr. O'Connor created are in widespread use throughout the United States and Canada.

Mr. O'Connor also advised the U.S. Rail Accounting Principles Board (RAPB) on the costing aspects of regulatory reform policies. The RAPB mission included advising the ICC as to the inclusion of productivity in the RCAF.

He provided expert testimony on coal rates, computerized data bases and cost systems and rail cost issues before the Interstate Commerce Commission.

Association of American Railroads, Washington, DC
Assistant Vice President, Economics (1979 - 1982)
Managing a large staff of professionals, Mr. O'Connor designed and managed major economic analysis projects. He helped formulate industry economic policy positions culminating in the Staggers Rail Act of 1980. He submitted expert testimony on behalf of the railroad industry in numerous cases before the Interstate Commerce Commission and state regulatory commissions. He also appeared regularly in national forums on economic issues.

Mr. O'Connor directed the most significant computerized industry Costing System project in 40 years, URCS, the cost system now used by all major US railroads. Mr. O'Connor's staff was responsible for development of the Rail Cost Adjustment Factor (RCAF). He also conducted industry seminars on URCS and related economic issues.

Mr. O'Connor also testified before the Interstate Commerce Commission on the design and application of the path breaking URCS rail cost system since adopted by the Commission and the rail industry.

He also directed development and installation of a commercial computerized economic and market analysis system now used by virtually all major US railroads.

Consolidated Rail Corporation, PA
Assistant Director, Cost & Economics (1977 - 1979)
Managing a staff of about 30 professionals, Mr. O'Connor was responsible for all Conrail management and regulatory cost analyses in both freight and passenger areas, including line abandonments. He testified before the ICC on the development of line subsidy standards now widely used in the US railroad industry.

He also finalized the design, installed and managed Contribution Simulator and Calculator (COSAC), a computerized internal management economic analysis system at Conrail. The COSAC system uses specific management accounting data to develop economic costs. COSAC replaced earlier systems and was used to guide virtually all transportation management decisions, including competitive market initiatives, consolidations, line abandonments and service discontinuance.

Mr. O'Connor also participated in cost allocation negotiations between Amtrak and Conrail on cost sharing of joint facilities on the North East corridor. He initiated and directed profit maximization and plant rationalization programs. He also designed and implemented computerization and improvement of a wide range of economic and cost analysis systems used to manage and turn around this multi-billion dollar corporation.

R.L. Banks & Associates Inc., Washington, DC
Consultant (1976 - 1977)
Mr. O'Connor conducted and directed numerous transportation- related projects in the U.S. and Canada ranging from national logistics analyses to site-specific studies. He specialized in costing systems and appeared as an expert witness on such systems in a precedent setting proceeding before a Canadian Crown Commission.

U.S. Railway Association, Washington, DC
Manager, Local Rail Service Planning (1974 - 1976)

In a project of unprecedented scope and historic impact, Mr. O'Connor developed, computerized, and implemented the light density lines cost analysis system, which defined Conrail. This system was used to reach asset disposition and line service decisions for thousands of miles of railroad. He served as liaison with congressional staffs and shipper groups, as well as federal, state, and local governments, and planning agencies. The system he created was a major element in the design and implementation of the streamlined Midwest-Northeast regional rail system. Mr. OConnor subsequently appeared as an expert witness to present and defend the operation of the USRA costing system.

Interstate Commerce Commission,
Economist, Washington, DC (1973-1974)
Mr. O'Connor served as a staff economist and authored a report analyzing industry investment patterns and ICC regulatory policy, including ICC use of cost evidence.

Education

- University of Massachusetts, Amherst, B.A. Economics
- University of Wisconsin, Graduate Course Work, Economics
- University of Delaware, Graduate Course Work, Business Management
- The American University, Graduate Course Work, Computer Science

Professional Organizations

- Transportation Research Board
  - Past Chairman of the Transportation Regulation Committee
- Transportation Research Forum
  - Past President of the Cost Analysis Chapter
- National Defense Transportation Association
  - Past Member of Board of Directors, National Capital Chapter

Academic honors

- Phi Kappa Phi academic honors society
- Phi Beta Kappa academic honors society

Military

- U.S. Army; Sergeant, Combat Engineers

Summary of Expert Testimony

of

Tom O'Connor

Vice President

Snavely King Majoros O'Connor & Bedell, Inc.

1111 14th St NW

Washington DC 20005

Tom O'Connor is Vice-President of Snavely King Majoros O'Connor & Lee (Snavely King), an economic and management consulting company. He has been engaged in the business of economic analysis for more than thirty years, beginning in 1973 as an economist with the Interstate Commerce Commission (now the Surface Transportation Board) and later in economic consulting and management positions of increasing responsibility with the United States Railway Association, Conrail, the Association of American Railroads and, from 1982 through 1988 with DNS, Associates and since 1988 with Snavely King Majoros O'Connor & Lee, (Snavely King), an economic and management consulting company focusing on telecommunications and transportation. Mr. O'Connor was Vice President at DNS Associates and has been Vice President and principal of Snavely King since joining the firm.

He has provided testimony in a number of proceedings before courts and regulatory commissions in the United States and Canada including:

- Interstate Commerce Commission,
- Surface Transportation Board,
- United States Railway Association,
- Regulatory Commission in New York
- Regulatory Commission in Indiana
- Regulatory Commission in Pennsylvania
- State Court in Indiana
- State Court in Montana,
- State Court in Virginia,
- Arbitration Panel in New York
- Mediation Panel in Massachusetts
- Mediation Panels in Washington DC
- Canadian Crown Commission.
- US District Court for Eastern District of Virginia,
- US District Court for Arizona

Tom O'Connor's practice centers on transportation with specific focus on negotiations, litigation and infrastructure issues including rationalization and redesign of the railroad infrastructure in the US as well as rebuilding of the railway infrastructure in Eastern Europe.

Mr. O'Connor's work in Eastern Europe focused on both transportation and telecommunications.

Testimony in Federal Regulatory Cases

- The comparative merits of the Interstate Commerce Commission's Uniform Rail Costing System (URCS) and Cost Center Accounting submitted to the ICC on behalf of the US Railroad industry in February 1980 in Docket No. 37203.

- The economics and computer technology of the Light Density Line Methodology used to define Conrail, submitted to USRA before a special hearing in 1980.

- Computerized transportation database design and use. Verified statement was submitted to ICC on behalf of the US Railroad industry in Nov 1980 in Ex Parte No. 385.

- The comparative merits of two regulatory rail-costing systems, URCS and the predecessor rail costing system, Rail Form A, submitted to the ICC on behalf of the US Railroad industry in March 1981, in Ex Parte 399.

- Testimony on the Preliminary 1979 Rail Cost Study as released by the ICC, calling for adopting and improving URCS. This was submitted to the ICC on behalf of the US Railroad industry in Docket No. 37203 in February 1982.

- Rail costing using Rail Form a costs applied to service units generated by a computerized rail network model. This verified statement was submitted to the ICC on behalf of a shipper located in Nevada in July 1985 in ICC Docket Nos. 37809 and 37815S.

- Rail costing, also using Rail Form A costs applied to service units generated by computerized network model. This verified statement was submitted to ICC on behalf of a shipper located in Nevada in November, 1986 in Docket No. 37809, 37815S.

- Stand Alone Rail Costing, for use in rate reasonableness, using service units developed with a series of computerized network model. This verified statement was submitted to the ICC on behalf of the Association of American Railroads in September, 1988 in Docket No. 38239S .

- Rail merger conditions, developed using rail costs and a computerized network model. This verified statement was submitted to the ICC in March 1994 in Finance Docket No. 21215 (Sub. No. 5)

- The effects of computerized methods on rail operations and costs. This verified statement was submitted to the ICC on behalf of Coleto Creek Utility in July 1994 in Docket No. 41242.

- The cost of rail coal transportation using URCS costs and A Stand Alone Network. This verified statement was submitted to the ICC on behalf of West Texas Utilities in April 1995 in Docket No. 41191.

- Further testimony on the cost of rail coal transportation using URCS costs and a Stand Alone Network. This verified statement was submitted to the ICC on behalf of West Texas Utilities in July 1995 in Docket No. 41191.

- Oral Argument on the effects of the BN-SF merger on rail costs and service presented before the full Commission in August 1995 on behalf of Universal Forest Products in Finance Docket No. 32549.

- The effects of the UP-SP merger on costs, infrastructure and operations. Verified statement was submitted to ICC on Behalf of Kansas City Southern Railroad in March 1996 in Finance Docket No. 32760.

- Competitive truck transportation market. Joint Verified Statement with James Wells was submitted to Surface Transportation Board (STB) on behalf of TJ MAXX on June 22, 1998 in Docket No. 41192

- The investment plans of UP-SP to remedy effects of the UP-SP merger. Verified statement was submitted to STB on Behalf of Kansas City Southern Railroad in June, 1998 in Finance Docket No. 32760 UP-SP Merger Oversight Proceeding

- The Arkansas and Missouri Railroad Request For Discontinuance Waiver Filed on Behalf of Kansas City Southern Railroad. Verified statement was submitted to Surface Transportation Board (STB) in November1998 in Finance Docket No. 32670.

- Further testimony on the competitive truck transportation market. Joint Verified Statement with James Wells was submitted to Surface Transportation Board (STB) on behalf of TJMAXX in January, 1999 in Docket No. 41192

- Rail Merger Guidelines to develop new and improved merger analysis processes. Verified statements were submitted to Surface Transportation Board (STB) on behalf of

OxyChem, Oxy Vinyls, BASF and Williams Energy Services in May 2000 in Ex Parte 582.

- Reply Testimony on Rail Merger Guidelines to develop new and improved merger analysis processes. Reply Verified statements were submitted to Surface Transportation Board (STB) on behalf of OxyChem, Oxy Vinyls, BASF and Williams Energy Services in June 2000 in Ex Parte 582.

- Testimony on STB Rate Guidelines in small Shipment Cases. Verified statement was submitted to Surface Transportation Board (STB) on behalf of SK clients in STB Ex Parte 646 in June 2004.

- Oral Testimony on STB Rate Guidelines in small Shipment Cases. Oral Testimony was presented to the full Surface Transportation Board to Surface Transportation Board (STB) on behalf of SK clients in STB Ex Parte 646 in July 2004.

- Testimony on STB Stand Alone Costs focusing on alternatives. Comments submitted to Surface Transportation Board (STB) on behalf of SK in STB Ex Parte 657 in April 2005.

- Oral Testimony on STB Stand Alone Costs focusing on alternatives. Presented to Surface Transportation Board (STB) on behalf of SK in STB Ex Parte 657 in April 2005.

- Oral and Written Testimony on the first ever STB Small Shipment Rate Case. Comments submitted to Surface Transportation Board (STB) on behalf of BP Amoco in STB Docket NOR 42093 in May-June 2005. The case was resolved successfully through mediation.

- Oral and Written Testimony on Rail Fuel Surcharges. Comments were submitted to the Surface Transportation Board (STB) in April 2006 and oral testimony was presented the STB in May 2006 on behalf the American Chemistry Council. The testimony was submitted in STB Ex Parte 661. The issue is under adjudication.

- Testimony on Rail line Abandonments and related Environmental Damages. Comments were submitted to the Surface Transportation Board (STB) in June 2006 and July 2006 on behalf of ALCOA. The testimony was filed in STB Docket No. AB-290 and No. AB-149. The issues are under adjudication.

- Oral and Written Testimony on the second STB Small Shipment Rate Case. Comments

submitted to Surface Transportation Board (STB) on behalf of Williams in STB Docket NOR 42098 in 2006-2007. The case was resolved successfully through mediation.

Tom O'Connor -- State, Regional and Canadian Testimony

- Expert testimony centering on the costs of providing transportation to Medicaid care recipients. This testimony involved design and development of computerized costing models of highway transportation models. The evidence was central to resolution of long standing issues. This evidence was developed and submitted on behalf of Medicaid transportation providers and was accepted by the Court in Marion Superior Court in the State of Indiana in Cause No. 49D01 9309 MI952 on November 21, 2005. Oral testimony was presented in October, 2005. The case was decided in favor of the client.

- Expert antitrust testimony centering on the availability of construction materials. This was submitted in an antitrust case and was filed on behalf of Solcon in Solcon Constructions adv. Asphalt Busters Case No. CIV 01 01269 PHX ROS, United States District Court for the District of Arizona. This evidence was developed and submitted in May 2003.

- Expert testimony centering on commuter railroad operations and costs. This testimony involved design and development of computerized costing models of commuter rail operations. The evidence was central to arbitration to resolve subsidy disputes between New York and Connecticut. This evidence was developed and submitted on behalf of Metro North Commuter Railroad in August 1996 with oral testimony presented in February 1997. The case was decided successfully in favor of the client.

- Expert testimony centering on the effects of a series of explosions on transportation operations and costs. This was submitted on behalf of Washington construction Company in a damages case filed by Burlington Northern Railroad in state court in Montana, First Judicial District Court, and Cause Number ADV 91-1885. The case went to a jury trial and was decided successfully in favor of the client in September 1993.

- Expert antitrust testimony centering on computerized network models. This was submitted in an antitrust case filed on behalf of Geoplex in U.S. District Court for the Eastern District of Virginia, Geoplex Corporation v. CACI, Inc. Civil Action No. 89-610-A. This evidence was developed and submitted in November 1989.

- Expert testimony centering on transportation operations and costs. This was submitted

on behalf of the Canadian provinces of Alberta, Manitoba and Saskatchewan before a Canadian Crown Commission in a series of hearings held in Winnipeg, Manitoba and Regina, Saskatchewan in 1976. This led to an historic change in Canadian transportation regulation.

In addition to these cases Mr. O'Connor has also submitted testimony on rail costs and operations before State regulatory commissions in Indiana, Pennsylvania and New York.

Selected Project Summaries

Tom O'Connor

Vice President

Snavely King Majoros O'Connor & Bedell, Inc.

1111 14th St NW

Washington DC 20005

Introduction

Throughout more than two decades of providing consulting services in transportation, and telecommunications, Tom O'Connor has developed and defended practical operations, market and economic analyses. The projects he has directed include: developing economic analyses; analyzing mergers, acquisitions, and start-up companies, and in providing strategic planning services to commercial, institutional and government clients. In dozens of projects, these analyses have significantly influenced decision making in both the private and public sectors

Tom O'Connor has conducted many studies for government and commercial clients involving developing, gathering and analyzing market and pricing data. Mr. O'Connor's recent assignments have involved:

- Rail transportation
- Rail Fuel Surcharges
- Line abandonment cases and methodologies
- Design and management of a multi-million dollar nationwide rail and truck transportation procurement on behalf of a Fortune 500 company
- Merger analyses of railroads
- Merger analyses of manufacturing companies
- Business planning for companies in emerging economies
- Transportation contract negotiations
- Waterborne cost analyses
- Analysis of the allocation of rail passenger costs and revenues
- Comparative analyses of alternative product sourcing
- Cost analysis of transportation rates
- Evaluation of transportation operations in Eastern Europe
- Evaluation of telecoms installations in Eastern Europe
- Pricing analyses for commercial telecoms technologies and services in emerging economies

Mr. O'Connor has also conducted organizational and commercial studies relating to major European telecommunications projects.

Tom O'Connor completed a project for the Bulgarian State Railways (BDZ). The project involved an in-depth study of current rail operations in Eastern Europe and long range planning for the transition from a controlled economy to a market economy. The project included identifying the specifications for upgrading the rail-related telecommunications and management information systems. BDZ was the client in this project.

In a related multi-year project Mr. O'Connor designed an international telecoms company to provide service in Europe. He developed the blue print for this telecoms company, BDZCOM,

and presented the business plan to banking, and commercial and government agencies in the United States and Europe.

Tom O'Connor has held key management positions in government, private industry and trade association. He has direct experience planning deregulation and assisting companies adjust to decreased regulation, proliferation of competition and rapid changes in technology for producing and delivering services.

Tom O'Connor works closely with the client to develop economic analyses and supporting studies designed to meet the project and longer range objectives. The results of the analyses and studies are often presented as expert testimony in proceedings before state and federal regulatory agencies and courts in the US and Canada.

Some specific services offered include:

- Rail transportation Analyses
- Transportation rate litigation
- Transportation rate negotiations
- Transportation Cost Methodologies
- Operations analysis
- Transportation model design
- Assessment of economic and market evidence
- Preparation and presentation of expert testimony
- Analysis of data and evidence
- Analysis of rail operations in the context of mergers
- Analysis of telecoms networks
- Design of telecoms networks
- Planning and marketing a telecoms startup company
- Expert analysis and supporting studies that address:
    - Cost of service,
    - Pricing,
    - Revenue requirements and return on investment,
    - Market definition, impact, and potential for growth, and
    - Competitive characteristics of markets;
    - Analysis of relevant organizational policies and procedures;

In a long series of assignments, Tom O'Connor has established a consistent record of success.